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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/552,572	10/11/2005	Angela Speith-Herfurth	05581-00142-US	4767
23416	7590	09/15/2008	EXAMINER	
CONNOLLY BOVE LODGE & HUTZ, LLP			JACKSON, MONIQUE R	
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WILMINGTON, DE 19899			ART UNIT	PAPER NUMBER
			1794	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/552,572	SPEITH-HERFURTH ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Monique R. Jackson	1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-18 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-18 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date <u>10/11/05</u> .	6) <input type="checkbox"/> Other: _____.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 recites the limitation "a viscosity of at least 200,000 mm<sup>2</sup>/second" but fails to recite the temperature or conditions at which this viscosity is measured. Considering there are various ways of measuring and reporting viscosity, and that the measuring temperature directly affects the resulting viscosity, the claimed limitation renders the claim indefinite, particularly since the specification provides no further guidance.

3. Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 14 recites the limitation "the release layer" in line 2. There is insufficient antecedent basis for this limitation in the claim.

4. Claim 17 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 17 recites the limitation "A method of manufacturing a polypropylene film according to Claim 1..the cold sealing adhesive is preformed in the gravure printing method", however, the claim fails to include any process steps for manufacturing the film and there is insufficient antecedent basis for the limitation "the gravure printing method". Hence, it is unclear what method/process applicant is intending to encompass.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-10, 12, and 15-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Crass et al (USPN 4,786,533.) Crass et al teach a biaxially oriented, coextruded, transparent polypropylene film wherein the propylene polymer base layer additionally contains a low molecular hydrocarbon resin in an amount of 10 to 40% by weight, based on the total weight of propylene polymer and resin, and each top layer contains a polydialkylsiloxane in an amount of 0.3 to 1.5% by weight, based on the weight of the top layer (Abstract.) Crass et al teach that the polypropylene for the base layer is preferably isotactic propylene homopolymer having a melting point of not less than 150°C (Col. 2, line 16-30.) The hydrocarbon resin has a softening point of 60 to 180°C, preferably 80 to 130°C; and is preferably petroleum resins, styrene resins, cyclopentadiene resins and terpene resins as taught in Col. 2-3 (Col. 2, line 16-Col. 3, line 19.) Crass et al teach that the top layers applied to one or both sides of the polypropylene base film can be heat-sealable or cold-sealable layers (*reads upon the claimed cold seal coating*), and consist of ethylene homopolymer, a copolymer of propylene as the main component and ethylene, preferably in an amount of at most about 10% by weight based on the copolymer, a copolymer of propylene as the main component and 1-butene, preferably in an amount of from about 10 to 15% by weight based on the copolymer, a terpolymer of propylene, ethylene and an alpha-olefin with 4 to 10 carbon atoms, preferably a terpolymer of about 93.2 to 99.0% by

weight of propylene, about 0.5 to 1.9% by weight of ethylene and about 0.5 to 4.9% by weight of an alpha-olefin with 4 to 10 carbon atoms, or a mixture of these polymers, or like the base layer, of a propylene homopolymer (Col. 3, lines 27-53.) Crass et al teach that the polydialkylsiloxane introduced as an additive into the top layer or layers is preferably a polydialkylsiloxane which contains 1 to 4 carbon atoms in the alkyl group, polydimethylsiloxane being particularly preferred; with a kinematic viscosity of from about 1,000 to 100,000 mm<sup>2</sup> /sec at 25°C (*wherein the Examiner takes the position that at some temperature lower than 25°C, the polydimethylsiloxane would inherently have a viscosity as instantly claimed*; Col. 3, lines 55-65.) Crass et al also teach that the base and the top layer or layers can contain appropriate additives in the particular active amount, with antistatic agents, stabilizers and nucleating agents being mentioned as preferred additives and in particular, to improve processability, from about 0.1 to 1% by weight, and preferably from about 0.2 to 0.5% by weight, of an organic or inorganic antiblocking agent can be added to the top layer or layers (Col. 4, lines 3-16.)

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murschall et al (USPN 5,436,041.) Murschall et al teach a transparent, printable, biaxially orientated polyolefin multilayer film which can be sealed on both sides, having a base layer B and different top layers A and C located on both sides thereof; wherein the base layer B contains a

peroxidically degraded polypropylene polymer, having a melting point in the range of 160°C to about 170°C, preferably an isotactic polypropylene; wherein the film has a low sealing temperature on one side and customary sealing temperature on the other (Abstract; Col. 3, lines 46-60; Col. 10-Col. 11, line 18; Examples.) Murschall et al teach that the top layer A contains a polymer mixture of two or more of the olefin co- and/or terpolymers as recited in Col. 4; including propylene polymers having a propylene content within the claimed range, a high-viscosity polydiorganosiloxane such as polydialkylsiloxanes and silicon dioxide and, if appropriate, other added additives; wherein the polydiorganosiloxane has a viscosity of greater than about 50,000mm<sup>2</sup>/s, preferably between about 100,000 and about 1,000,000mm<sup>2</sup>/s, at 25°C, and in generally added in an amount of about 1.0 to about 4.0% by weight, based on the top layer A (Abstract; Col. 5, line 45-59.) Top layer C contains an olefin copolymer or terpolymer as described in Col. 6, including propylene polymers having a propylene content within the claimed range, and preferably as an additive, an antiblocking agent in an antiblocking effective amount, generally about 0.1 to about 1.0% by weight; wherein the outer surface of top layer C is corona treated or flame treated and comprises a non-cohesive covering of polydialkylsiloxane (Abstract; Col. 6-Col. 7, line 25; Col. 10, lines 5-10.) Murschall et al also teach that the base layer B, as well as the top layers, may further include additives including antistatics, antiblocking agents, lubricants such as polydimethylsiloxanes, stabilizers, neutralizing agents, and/or low molecular weight hydrocarbon resins such as petroleum resins, styrene resins, cyclopentadiene resins and terpene resins having a softening point of about 60 to about 180°C, preferably about 80 to about 150°C, and added in an amount of about 3 to about 15% by weight based on the layer (Col. 4, line 36-41; Col. 7, line 57-Col. 9, line 12.) Murschall et al teach that the antistatic agents include

tertiary aliphatic amines (Col. 8, lines 3-14.) Murschall et al do not specifically teach that the film further comprises a cold sealing adhesive coating and opposite release layer as instantly claimed, however, it is well established in the art that packaging films can be provided with cold sealing coatings to allow the BOPP packaging film to be sealed at room temperature, particularly for sensitive products, as evidenced by the prior art (Page 1 of the specification) and further that an outer layer is provided with antiblocking or release properties to allow the packaging film to be easily wound and unwound, and hence would have been obvious to one having ordinary skill in the art at the time of the invention, wherein any conventional method of coating would have been obvious including printing such as gravure printing.

9. Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Speith-Herfurth et al (USPN 6,811,886.) Speith-Herfurth et al teach a transparent, multi-layer, sealable, biaxially oriented polypropylene film having improved barrier properties which is constructed of a base layer B of preferably isotactic polypropylene having a melting point of 140 to 170°C, preferably 150 to 165°C; at least one sealable covering layer D via an intermediate layer Z, on one or both surfaces of the base layer; wherein the base layer may comprise conventional additives including neutralizers, stabilizers, antistatics, and hydrocarbon resins, particularly the hydrocarbon resins as claimed, in an amount from 1 to 20% by weight, based on the weight of the base layer (Abstract; Col. 2, line 13-Col. 4, line 41.) The interlayer can be formed from olefin polymers as recited in Col. 5-6, including propylene polymers as claimed, and may further include additives such as lubricants like polydialkylsiloxanes or other silicone oils having a viscosity of from 500 to 1,000,000 mm<sup>2</sup>/s (Col. 5, line 50-Col. 30.) Speith-Herfurth et al further teach top layers applied to both sides, comprising olefin polymers as recited in Col. 8-9; and may

further comprise various additives including stabilizers, neutralizers, antistatics such as aliphatic tertiary amines, and preferably include antiblocking agents in an amount of 0.01 to 2% by weight (Col. 3; Col. 8-Col. 10, line 9.) Speith-Herfurth et al further teach that one or both surfaces can be corona or flame treated (Col. 10, lines 57-61.) Speith-Herfurth do not specifically teach that the sealable covering layers are cold sealing layers or further comprise a cold sealing adhesive coating and opposite release layer as instantly claimed, however, it is well established in the art that packaging films can be provided with cold sealing coatings to allow the BOPP packaging film to be sealed at room temperature, particularly for sensitive products, as evidenced by the prior art (Page 1 of the specification) and further that an outer layer is provided with antiblocking or release properties to allow the packaging film to be easily wound and unwound, and hence would have been obvious to one having ordinary skill in the art at the time of the invention, wherein any conventional method of coating would have been obvious including printing such as gravure printing.

10. Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cretekos et al (USPN 6,087,015.) Cretekos et al teach a coextruded, biaxially oriented polypropylene film comprising a polypropylene core layer, and a matte surface layer comprising a blend of propylene polymers with 0.05 to about 10 weight percent of a polydialkylsiloxane having a viscosity of above about 10,000,000 cSt; (Abstract; Col. 4, line 23-Col. 5, line 13.) Cretekos et al teach that the film may comprise an additional surface layer on the core layer opposite to the matte surface layer, formed from various olefin polymers including propylene polymers as claimed (Col. 5, lines 18-43.) Additives may be further incorporated into the film such as antiblocking agents in an amount from 0.1wt% to about 3wt% of the layer, slip agents, antistatic

agents such as tertiary amines, and hydrocarbon resins such as petroleum resins, styrene resins, cyclopentadiene resins and terpene resins (Col. 5, lines 44-Col. 6, line 36.) Cretekos et al teach that the films can be further printed by printing methods including gravure printing, and that optionally one or both of the external surfaces are coated and/or flame treated or corona treated before winding (Col. 6, lines 51-53; Col. 7, lines 1-10.) Though Cretekos et al teach that the external surfaces may be treated and coated, Cretekos et al do not specifically teach a cold seal coating or release layer as instantly claimed, however, it is well established in the art that packaging films can be provided with cold sealing coatings to allow the BOPP packaging film to be sealed at room temperature, particularly for sensitive products, as evidenced by the prior art (Page 1 of the specification) and further that an outer layer is provided with antiblocking or release properties to allow the packaging film to be easily wound and unwound, and hence would have been obvious to one having ordinary skill in the art at the time of the invention, wherein any conventional method of coating would have been obvious including printing such as gravure printing as already disclosed by Cretekos et al. With respect to the polypropylene base layer, though Cretekos et al do not specifically teach that the propylene homopolymer in the base layer is an isotactic polypropylene with a melting point as instantly claimed, it is well established in the art that typical propylene polymers utilized in similar BOPP films are preferably isotactic PP having the claimed properties. With respect to the hydrocarbon resin, though Cretekos et al teach hydrocarbon resins as instantly claimed, Cretekos et al do not specifically teach the content or the softening temperature, However, one having ordinary skill in the art would have been motivated to determine the desired amount of hydrocarbon resin to provide the desired properties to the film wherein typical amounts are within the claimed range, and further, conventional

hydrocarbon resins utilized in similar BOPP film have a softening temperature as claimed.

Lastly, though Cretekos et al teach that the layers of the film may further comprise various additives, Cretekos et al do not specifically teach stabilizers and neutralizers, however, both of these additives are conventional additives utilized in the art and would have been obvious to one having ordinary skill in the art at the time of the invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Monique R. Jackson whose telephone number is 571-272-1508. The examiner can normally be reached on Mondays-Thursdays, 10:00AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571-272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Monique R Jackson/  
Primary Examiner, Art Unit 1794  
September 12, 2008